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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 HEE SOON PARK,  
11 Plaintiff,  
12 vs.

13  
14 SUMMIT WESTERN CORP.; and DOES  
15 1 through 10,  
16 Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
VIOLATION OF:

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT, CAL CIV. CODE §§ 51 -  
52 et seq.;
3. CALIFORNIA'S DISABLED  
PERSONS ACT, CAL CIV. CODE §54 et  
seq.
4. CALIFORNIA HEALTH & SAFETY  
CODE § 19955, et seq.
5. NEGLIGENCE

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26 Plaintiff HEE SOON PARK ("Plaintiff") complains of Defendants SUMMIT  
WESTERN CORP.; and DOES 1 through 10 ("Defendants") and alleges as follows:

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**PARTIES**

1  
2 1. Plaintiff is a California resident with a physical disability. Plaintiff suffers  
3 from Dyspnea and stage 3 Neuropathy in her legs, which substantially limit her ability to  
4 walk and requires the use of a wheelchair at all times when traveling in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for a restaurant  
7 (“Business”) located at or about 960 N. Broadway., Los Angeles, California.

8 3. The true names and capacities, whether individual, corporate, associate or  
9 otherwise of Defendant DOES 1 to 10, and each of them, are unknown to Plaintiff, who  
10 therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of Court  
11 to amend this Complaint when the true names and capacities have been ascertained.  
12 Plaintiff is informed and believes and, based thereon, alleges that each such fictitiously  
13 named Defendants are responsible in some manner, and therefore, liable to Plaintiff for  
14 the acts herein alleged.

15 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
16 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
17 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
18 the things alleged herein was acting with the knowledge and consent of the other  
19 Defendants and within the course and scope of such agency or employment relationship.

20 5. Whenever and wherever reference is made in this Complaint to any act or  
21 failure to act by a defendant or Defendants, such allegations and references shall also be  
22 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
23 and severally.

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
26 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
27 *seq.*)  
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7. Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same nucleus of operating facts, are also brought under California law, including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1, 54, 54., 54.3 and 55.

8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

9. Venue is proper in this court pursuant to 28 USC §1391(b). The real property which is the subject of this action is located in this district, Los Angeles County, California, and Plaintiff's causes of actions arose in this district.

## **FACTUAL ALLEGATIONS**

10. In or about December of 2022, Plaintiff went to the Business.

11. The Business is a restaurant business establishment, open to the public, and is a place of public accommodation and affects commerce through its operation. Defendants provide parking spaces for customers.

12. While attempting to enter the Business during each visit, Plaintiff personally encountered a number of barriers that interfered with her ability to use and enjoy the goods, services, privileges, and accommodations offered at the Business.

13. To the extent of Plaintiff's personal knowledge, the barriers at the Business included, but were not limited to, the following:

- a. Defendants failed to comply with the federal and state standards for the parking space designated for persons with disabilities. Defendants failed to provide the parking space identification sign with the International Symbol of Accessibility.

b. Defendants failed to comply with the federal and state standards for the parking space designated for persons with disabilities. Defendants failed to post required signage such as “Van Accessible,” “Minimum Fine \$250” and “Unauthorized Parking.”

14. These barriers and conditions denied Plaintiff the full and equal access

1 to the Business and caused her difficulty and frustration. Plaintiff wishes to return and  
2 patronize the Business, however, Plaintiff is deterred from visiting the Business because  
3 her knowledge of these violations prevents her from returning until the barriers are  
4 removed.

5 15. Based on the violations, Plaintiff alleges, on information and belief, that  
6 there are additional barriers to accessibility at the Business after further site inspection.  
7 Plaintiff seeks to have all barriers related to her disability remedied. *See Doran v. 7-*  
8 *Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

9 16. In addition, Plaintiff alleges, on information and belief, that Defendants  
10 knew that particular barriers render the Business inaccessible, violate state and federal  
11 law, and interfere with access for the physically disabled.

12 17. At all relevant times, Defendants had and still have control and dominion  
13 over the conditions at this location and had and still have the financial resources to  
14 remove these barriers without much difficulty or expenses to make the Business  
15 accessible to the physically disabled in compliance with ADDAG and Title 24  
16 regulations. Defendants have not removed such barriers and have not modified the  
17 Business to conform to accessibility regulations.

#### 18 **FIRST CAUSE OF ACTION**

#### 19 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

20 18. Plaintiff incorporates by reference each of the allegations in all prior  
21 paragraphs in this complaint.

22 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
23 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
24 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
25 public accommodation by any person who owns, leases, or leases to, or operates a place  
26 of public accommodation. *See* 42 U.S.C. § 12182(a).

27 20. Discrimination, *inter alia*, includes:  
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- 1 a. A failure to make reasonable modification in policies, practices, or  
2 procedures, when such modifications are necessary to afford such  
3 goods, services, facilities, privileges, advantages, or accommodations  
4 to individuals with disabilities, unless the entity can demonstrate that  
5 making such modifications would fundamentally alter the nature of  
6 such goods, services, facilities, privileges, advantages, or  
7 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 8 b. A failure to take such steps as may be necessary to ensure that no  
9 individual with a disability is excluded, denied services, segregated or  
10 otherwise treated differently than other individuals because of the  
11 absence of auxiliary aids and services, unless the entity can  
12 demonstrate that taking such steps would fundamentally alter the  
13 nature of the good, service, facility, privilege, advantage, or  
14 accommodation being offered or would result in an undue burden. 42  
15 U.S.C. § 12182(b)(2)(A)(iii).
- 16 c. A failure to remove architectural barriers, and communication barriers  
17 that are structural in nature, in existing facilities, and transportation  
18 barriers in existing vehicles and rail passenger cars used by an  
19 establishment for transporting individuals (not including barriers that  
20 can only be removed through the retrofitting of vehicles or rail  
21 passenger cars by the installation of a hydraulic or other lift), where  
22 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 23 d. A failure to make alterations in such a manner that, to the maximum  
24 extent feasible, the altered portions of the facility are readily  
25 accessible to and usable by individuals with disabilities, including  
26 individuals who use wheelchairs or to ensure that, to the maximum  
27 extent feasible, the path of travel to the altered area and the  
28 bathrooms, telephones, and drinking fountains serving the altered

1 area, are readily accessible to and usable by individuals with  
2 disabilities where such alterations to the path or travel or the  
3 bathrooms, telephones, and drinking fountains serving the altered  
4 area are not disproportionate to the overall alterations in terms of cost  
5 and scope. 42 U.S.C. § 12183(a)(2).

6 21. Where parking spaces are provided, accessible parking spaces shall be  
7 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
8 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
9 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
10 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
11 be van parking space. 2010 ADA Standards § 208.2.4.

12 22. Under the ADA, the method and color of marking are to be addressed by  
13 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California  
14 Building Code (“CBC”), the parking space identification signs shall include the  
15 International Symbol of Accessibility. Parking identification signs shall be reflectorized  
16 with a minimum area of 70 square inches. Additional language or an additional sign  
17 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A  
18 parking space identification sign shall be permanently posted immediately adjacent and  
19 visible from each parking space, shall be located with its centerline a maximum of 12  
20 inches from the centerline of the parking space and may be posted on a wall at the  
21 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

22 23. Moreover, an additional sign shall be posted either in a conspicuous place at  
23 each entrance to an off-street parking facility or immediately adjacent to on-site  
24 accessible parking and visible from each parking space. The additional sign shall not be  
25 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in  
26 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in  
27 designated accessible spaces not displaying distinguishing placards or special license  
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1 plates issued for persons with disabilities will be towed always at the owner's expense..."  
2 *See* CBC § 11B-502.8, *et seq.*

3 24. Here, Defendants failed to provide the parking space identification sign with  
4 the International Symbol of Accessibility. In addition, Defendants failed to provide signs  
5 stating "Minimum Fine \$250" and "Van Accessible." Moreover, Defendants failed to  
6 provide the additional sign with the specific languages stating "Unauthorized vehicles  
7 parked in designated accessible spaces not displaying distinguishing placards or special  
8 license plates issued for persons with disabilities will be towed always at the owner's  
9 expense..."

10 25. A public accommodation shall maintain in operable working condition those  
11 features of facilities and equipment that are required to be readily accessible to and usable  
12 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

13 26. By failing to maintain the facility to be readily accessible and usable by  
14 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related  
15 regulations.

16 27. The Business has denied and continues to deny full and equal access to  
17 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
18 discriminated against due to the lack of accessible facilities, and therefore, seeks  
19 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
20 by individuals with disabilities.

## 21 **SECOND CAUSE OF ACTION**

### 22 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

23 28. Plaintiff incorporates by reference each of the allegations in all prior  
24 paragraphs in this complaint.

25 29. California Civil Code § 51 states, "All persons within the jurisdiction of this  
26 state are free and equal, and no matter what their sex, race, color, religion, ancestry,  
27 national origin, disability, medical condition, genetic information, marital status, sexual  
28 orientation, citizenship, primary language, or immigration status are entitled to the full

1 and equal accommodations, advantages, facilities, privileges, or services in all business  
2 establishments of every kind whatsoever.”

3 30. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,  
4 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable  
5 for each and every offense for the actual damages, and any amount that may be  
6 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
7 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any  
8 attorney’s fees that may be determined by the court in addition thereto, suffered by any  
9 person denied the rights provided in Section 51, 51.5, or 51.6.

10 31. California Civil Code § 51(f) specifies, “a violation of the right of any  
11 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
12 shall also constitute a violation of this section.”

13 32. The actions and omissions of Defendants alleged herein constitute a denial  
14 of full and equal accommodation, advantages, facilities, privileges, or services by  
15 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
16 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
17 51 and 52.

18 33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
19 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
20 damages as specified in California Civil Code §55.56(a)-(c).

### 21 **THIRD CAUSE OF ACTION**

#### 22 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

23 34. Plaintiff incorporates by reference each of the allegations in all prior  
24 paragraphs in this complaint.

25 35. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
26 entitled to full and equal access, as other members of the general public, to  
27 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
28 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,



1 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
2 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
3 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
4 places of public accommodations, amusement, or resort, and other places in which the  
5 general public is invited, subject only to the conditions and limitations established by  
6 law, or state or federal regulation, and applicable alike to all persons.

7 36. California Civil Code § 54.3(a) states, “Any person or persons, firm or  
8 corporation who denies or interferes with admittance to or enjoyment of public facilities  
9 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
10 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
11 the actual damages, and any amount as may be determined by a jury, or a court sitting  
12 without a jury, up to a maximum of three times the amount of actual damages but in no  
13 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be  
14 determined by the court in addition thereto, suffered by any person denied the rights  
15 provided in Section 54, 54.1, and 54.2.

16 37. California Civil Code § 54(d) specifies, “a violation of the right of an  
17 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
18 constitute a violation of this section, and nothing in this section shall be construed to limit  
19 the access of any person in violation of that act.

20 38. The actions and omissions of Defendants alleged herein constitute a denial  
21 of full and equal accommodation, advantages, and facilities by physically disabled  
22 persons within the meaning of California Civil Code § 54. Defendants have  
23 discriminated against Plaintiff in violation of California Civil Code § 54.

24 39. The violations of the California Disabled Persons Act caused Plaintiff to  
25 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
26 statutory damages as specified in California Civil Code §55.56(a)-(c).

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**FOURTH CAUSE OF ACTION**

**CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

40. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

41. Plaintiff and other similar physically disabled persons who require the use of a wheelchair are unable to use public facilities on a “full and equal” basis unless each such facility is in compliance with the provisions of California Health & Safety Code § 19955 et seq. Plaintiff is a member of the public whose rights are protected by the provisions of California Health & Safety Code § 19955 et seq.

42. The purpose of California Health & Safety Code § 1995 et seq. is to ensure that public accommodations or facilities constructed in this state with private funds adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. The code relating to such public accommodations also require that “when sanitary facilities are made available for the public, clients, or employees in these stations, centers, or buildings, they shall be made available for persons with disabilities.

43. Title II of the ADA holds as a “general rule” that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of goods (or use), services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a). Further, each and every violation of the ADA also constitutes a separate and distinct violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

**FIFTH CAUSE OF ACTION**

**NEGLIGENCE**

44. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

4           46. Defendants breached their duty of care by violating the provisions of ADA,  
5 Unruh Civil Rights Act and California Disabled Persons Act.

## PRAYER FOR RELIEF

11           1.     For preliminary and permanent injunction directing Defendants to comply  
12 with the Americans with Disability Act and the Unruh Civil Rights Act;

15           3.     Award of all reasonable restitution for Defendants' unfair competition  
16 practices;

19        5.     Prejudgment interest pursuant to California Civil Code § 3291; and

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**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: March 6, 2023

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim  
Jason J. Kim, Esq.  
Attorneys for Plaintiff